

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SCH SHEET METAL, INC.
Employer

and

Case 29-RC-279360

INTERNATIONAL ASSOCIATION OF SHEET
METAL, AIR, RAIL, AND TRANSPORTATION
WORKERS LOCAL UNION NO. 28
Petitioner

and

LOCAL 355, UNITED SERVICE WORKERS
UNION, IUJAT
Intervenor

ORDER

The Petitioner's Request for Review of the Regional Director's Order Dismissing Petition and Withdrawing Notice of Representation Hearing is denied as it raises no substantial issues warranting review.¹

¹ In dismissing the petition, the Regional Director concluded that (1) the Employer is bound by the 1-year extension of the collective bargaining agreement between the Long Island and New York Mechanical Contractors Association (the Association) and the Intervenor; (2) the open period for filing a petition would have run from April 2, 2021 to May 1, 2021; and (3) the petition here, which was filed on July 1, 2021, was untimely and therefore barred.

In denying review of the Regional Director's conclusions, we note first that the Assumption Agreement executed by the Intervenor and Employer in 2015 authorized the Association to bargain for the Employer and bind it to any extension of the Association's collective-bargaining agreement with the Intervenor. Contrary to the Petitioner's argument, the Assumption Agreement created a contractual relationship between the Employer and the Association, even absent a signature from the Association. See *Leapley Co.*, 278 NLRB 981, 982 (1986). When an employer authorizes a multiemployer association to bargain on its behalf, it may revoke such authorization by unequivocal and timely notice. *Retail Associates, Inc.*, 120 NLRB 388, 393 (1958). Here, the Assumption Agreement provided steps for rescinding the Association's bargaining authority, including a requirement that the Employer send the Intervenor and the Association written notice at least 90 days but not more than 120 days before the collective bargaining agreement's renewal or termination provisions. The Employer's April 23, 2021 notice purportedly terminating the Association's bargaining authority was untimely under the Assumption Agreement's 90- to 120-day window. See *Sheet Metal Workers*

LAUREN McFERRAN,	CHAIRMAN
MARVIN E. KAPLAN,	MEMBER
GWYNNE A. WILCOX,	MEMBER

Dated, Washington, D.C. November 1, 2021.

International Assn., Local 104 v. Simpson Sheet Metals, Inc., 954 F.2d 554, 555 (9th Cir. 1992) (holding that, in order to effectively withdraw negotiating authority from a multiemployer association, the withdrawal “must be carried out as specified in the agreement creating the multiemployer unit.”). The Employer therefore did not effectively revoke the Association’s authority to bind it to the 1-year contract extension and is accordingly bound by the extension.

The Petitioner argues that the Regional Director’s finding that the 1-year extension to the collective-bargaining agreement was prematurely executed prevents the extension from barring its petition. Under the premature extension doctrine, however, the open period for filing a petition was dictated by the antecedent agreement’s original June 30, 2021 termination date. Accordingly, the open period here was from April 2, 2021 through May 1, 2021. The Regional Director therefore properly dismissed Petitioner’s July 1, 2021 petition as contract-barred. See *H.L. Klion, Inc.*, 148 NLRB 656, 660 (1964) (clarifying that the premature extension doctrine “is not an absolute ban on premature extensions, but only subjects such extensions to the condition that if a petition is filed during the open period calculated from the expiration date of the old contract, the premature extension will not be a bar”).